

---

---

# HOUSE BILL No. 1593

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-25; IC 6-3.1-26.

**Synopsis:** Adoption tax credits. Provides a credit against adjusted gross income tax for qualified adoption expenses paid or incurred by a taxpayer who adopts a child. Provides that the credit does not apply to expenses incurred for stepparent adoptions or surrogate parenting arrangements or to expenses paid or reimbursed through an employer program or otherwise. Provides that the amount of the credit for each child adopted is the lesser of \$5,000 or the total of the qualified adoption expenses for the child. Provides a credit against adjusted gross income tax for qualified adoption expenses paid or incurred by a taxpayer who adopts a special needs child after December 31, 2003. Provides that the amount of the credit for each special needs child adopted is the lesser of \$6,000 or the total of the qualified adoption expenses for the child.

**Effective:** January 1, 2004.

---

---

## Avery, Austin, Klinker

---

---

January 16, 2003, read first time and referred to Committee on Ways and Means.

---

---

C  
o  
p  
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1593

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2004]:

4 **Chapter 25. Child Adoption Tax Credit**

5 **Sec. 1. (a)** As used in this chapter, "qualified adoption expenses"  
6 means any of the following costs paid or incurred by a taxpayer as  
7 the result of the finalized adoption of a child:

8 (1) Court costs.

9 (2) Agency fees.

10 (3) The putative father registry fee and adoption history fee.

11 (4) Actual and reasonable travel expenses of the adoptive  
12 parent.

13 (5) Actual and reasonable expenses for telephone service used  
14 in connection with the adoption by the adoptive parent.

15 (6) Any lawful adoption expenses that are:

16 (A) expressly enumerated; or

17 (B) approved by the court supervising the adoption;



C  
o  
p  
y

under IC 35-46-1-9(b).

(b) The term does not include the following:

- (1) Expenses paid or incurred for the adoption of a child by the child's stepparent.
- (2) Expenses paid or incurred in carrying out a surrogate parenting arrangement.
- (3) Expenses that are paid or reimbursed under an employer provided adoption assistance program or otherwise.

Sec. 2. As used in this chapter, "taxpayer" means an individual who has any adjusted gross income tax liability.

Sec. 3. (a) Except as provided in subsection (b) and section 4 of this chapter, a taxpayer who adopts a child may claim a credit against the adjusted gross income tax imposed by IC 6-3 for the taxable year during which the adoption of the child becomes final. The credit for the taxable year during which the adoption becomes final is equal to the lesser of:

- (1) the total amount of the taxpayer's qualified adoption expenses for the child adopted, including expenses paid or incurred during taxable years that precede the taxable year during which the adoption of the child becomes final; or
- (2) five thousand dollars (\$5,000).

(b) If a taxpayer pays or incurs qualified adoption expenses for an adopted child in a taxable year after the taxable year during which the adoption of the child becomes final, the taxpayer may claim a credit under this chapter for the taxable year in an amount equal to the lesser of:

- (1) the amount of the taxpayer's qualified adoption expenses for the adopted child during the taxable year; or
- (2) five thousand dollars (\$5000) minus any credit amount claimed by the taxpayer under subsection (a) for the taxable year during which the adoption of the child becomes final.

In determining the amount of qualified adoption expenses for the taxable year under subdivision (1), the taxpayer may not include in the amount any expenses paid during the taxable year but incurred during the taxable year in which the adoption becomes final and claimed as a credit under subsection (a) for the taxable year in which the adoption becomes final.

Sec. 4. A tax credit is not allowed under this chapter for an adoption related expense:

- (1) to the extent that the expense is funded or reimbursed by a federal, state, or local program; or
- (2) if the taxpayer claims a tax credit or deduction for the

C  
o  
p  
y



expense under any other state law.

**Sec. 5.** If both spouses reside in the same household, only one (1) credit may be claimed by the spouses under this chapter for the taxable year. However, in the case of a husband and wife who:

- (1) pay or incur adoption related expenses; and
- (2) file separate tax returns;

the husband and wife may take the credit in equal shares or one (1) spouse may take the entire credit.

**Sec. 6.** The amount of the credit provided by this chapter that a taxpayer claims for a taxable year may not exceed the sum of the taxes imposed by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter. If the credit provided by this chapter exceeds that sum for the taxable year, the taxpayer may elect to have the excess carried over to succeeding taxable years and used as a credit against the tax otherwise due and payable by the taxpayer under IC 6-3 during those taxable years.

**Sec. 7. (a)** If the taxpayer elects to have the unused credit carried over to succeeding taxable years under this chapter, then each time the credit is carried over to a succeeding taxable year, the unused credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for five (5) taxable years following the unused credit year.

**(b)** A taxpayer is not entitled to a carryback or a refund of an unused credit.

SECTION 2. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

**Chapter 26. Special Needs Child Adoption Tax Credit**

**Sec. 1.** As used in this chapter, "disability" means a medically verified mental, physical, or emotional impairment that substantially limits at least one (1) major life activity, including impairments that are congenital or acquired by accident, injury, or disease.

**Sec. 2.** As used in this chapter, "qualified adoption expenses" has the meaning set forth in IC 6-3.1-25-1.

**Sec. 3.** As used in this chapter, "special needs child" means a child who has been determined by the division of family and children, a child placing agency (as defined in IC 12-7-2-31), or a circuit or superior court to be a child who:

C  
o  
p  
y



(1) is a citizen or resident of the United States (as defined in 26 U.S.C. 217); and

(2) is:

(A) less than eighteen (18) years of age and:

(i) cannot or should not be returned to the home of the child's parents; and

(ii) is reasonably difficult to place with adoptive parents because the child is at least two (2) years of age, is part of a group of siblings to be placed in the same home, is a member of a minority group, or has a disability; or

(B) at least eighteen (18) years of age and has a disability that would limit the child's ability to live independently of the adoptive parents.

Sec. 4. As used in this chapter, "taxpayer" means an individual who has any adjusted gross income tax liability.

Sec. 5. As used in this chapter, "department" refers to the state department of revenue.

Sec. 6. (a) Except as provided in subsection (b) and section 7 of this chapter, a taxpayer who legally adopts a special needs child after December 31, 2003, may claim a credit against the adjusted gross income tax imposed by IC 6-3 for the taxable year during which the adoption of the special needs child becomes final. The credit for the taxable year during which the adoption becomes final is equal to the lesser of:

(1) the total amount of the taxpayer's qualified adoption expenses for the special needs child adopted, including expenses paid or incurred during taxable years that precede the taxable year during which the adoption of the special needs child becomes final; or

(2) six thousand dollars (\$6,000).

(b) If a taxpayer pays or incurs qualified adoption expenses for an adopted special needs child in a taxable year after the taxable year during which the adoption of the special needs child becomes final, the taxpayer may claim a credit under this chapter for the taxable year in an amount equal to the lesser of:

(1) the amount of the taxpayer's qualified adoption expenses for the adopted special needs child during the taxable year; or

(2) six thousand dollars (\$6,000) minus any credit amount claimed by the taxpayer under subsection (a) for the taxable year during which the adoption of the special needs child becomes final.

In determining the amount of qualified adoption expenses for the

C  
o  
p  
y



taxable year under subdivision (1), the taxpayer may not include in the amount any expenses paid during the taxable year but incurred during the taxable year in which the adoption becomes final and claimed as a credit under subsection (a) for the taxable year in which the adoption becomes final.

Sec. 7. A tax credit is not allowed under this chapter for an adoption related expense:

(1) to the extent that the expense is funded or reimbursed by a federal, state, or local program; or

(2) if the taxpayer claims a tax credit or deduction for the expense under any other state law.

Sec. 8. A husband and wife who adopt a special needs child and who file separate tax returns may take the credit in equal shares or one (1) of them may use the whole credit.

Sec. 9. The amount of the credit provided by this chapter that a taxpayer claims for a taxable year may not exceed the sum of the taxes imposed by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter. If the credit provided by this chapter exceeds that sum for the taxable year, the taxpayer may elect to have the excess carried over to succeeding taxable years and used as a credit against the tax otherwise due and payable by the taxpayer under IC 6-3 during those taxable years.

Sec. 10. (a) If the taxpayer elects to have the unused credit carried over to succeeding taxable years under this chapter, then each time the credit is carried over to a succeeding taxable year, the unused credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for five (5) taxable years following the unused credit year.

(b) A taxpayer is not entitled to a carryback or refund of an unused credit.

Sec. 11. A tax credit received by a taxpayer under this chapter may not be considered as a resource or income by a state or local agency to determine initial or continuing eligibility for services for which a special needs child may qualify.

Sec. 12. The department, after consultation with the division of family and children, may adopt rules under IC 4-22-2 necessary to implement this chapter.

SECTION 3. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-25 and IC 6-3.1-26, both as added by this act, apply to taxable years



1 **beginning after December 31, 2003.**

C  
o  
p  
y

